

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTH DISTRICT OF TEXAS
DALLAS DIVISION

AETNA LIFE INSURANCE COMPANY *

PLAINTIFF, *

VS. *

NO. 3-14-cv-00347-M-BF

METHODIST HOSPITALS OF DALLAS, *
AND TEXAS HEALTH RESOURCES *

DEFENDANTS *

DEFENDANTS' NOTICE OF NEW AUTHORITY

Defendants METHODIST HOSPITALS OF DALLAS¹ and TEXAS HEALTH RESOURCES² file this Notice of New Authority to present the Court with two orders of remand in cases involving identical claims to those subject to Aetna's declaratory judgment action here, and in support thereof, respectfully offer the following:

I. BACKGROUND

Aetna Life Insurance Company filed a declaratory judgment action against Methodist and THR, seeking an order from this Court that the Texas Prompt Pay Act does not apply to Methodist's and THR's late-pay allegations against Aetna with respect to clean claims it administered on behalf of third-party self-funded plans, and in the alternative, that ERISA preempts the Texas Prompt Pay Act from doing so.

Methodist and THR brought such claims against the correct Aetna entity with whom each contracted, Aetna Health, Inc., in Dallas County and Tarrant County state courts respectively. Aetna removed both actions. On February 12,

¹ Hereinafter referred to as "Methodist."

² Hereinafter referred to as "THR."

2014, United States District Judge John McBryde remanded THR's case back to Tarrant County state district court,³ and by agreement, that case is to be tried there on November 17, 2014.⁴ On July 30, 2014, United States District Judge Jane Boyle remanded Methodist's case back to Dallas county state district court.⁵ The state court proceedings are ones justifying this court abstaining from exercising jurisdiction in this case.

II. ARGUMENT

The Fifth Circuit noted in *Trent v. National City Bank of Indiana*⁶ that when "the federal declaratory judgment action raises only issues of state law and a state case involving the same state law issue is pending, generally the state court should decide the case and the federal court should exercise its discretion to dismiss the federal suit."⁷ With its declaratory judgment complaint, Plaintiff seeks an adjudication of whether a state law applies to certain claims. Following *Trent*, this Court should exercise its discretion to dismiss this case.⁸

III. CONCLUSION

THR's case against Aetna has been remanded back to state court and is set for trial in less than three months, and Methodist's case against Aetna has been

³ *Texas Health Resources v. Aetna Health, Inc.*, 2014 WL 553263 (N.D. Tex. Feb. 12, 2014)(McBryde, J.), attached as Exhibit 1 hereto.

⁴ Agreed Docket Control Plan/Scheduling Order, entered on April 14, 2014, in *Texas Health Resources v. Aetna Health, Inc.*, No. 17-269305-13, In the 17th Judicial District, Tarrant County, Texas, attached as Exhibit 2 hereto.

⁵ *Methodist Hospitals of Dallas v. Aetna Health, Inc.*, 2014 WL 3764879 (N.D. Tex. July 30, 2014)(Boyle, J.), attached as Exhibit 3 hereto.

⁶ 145 Fed. Appx. at 899.

⁷ *Id.*

⁸ See Joint Motion of Methodist-Dallas and Texas Health Resources for the Court to Abstain from Exercising Jurisdiction and to Dismiss Plaintiff's First Amended Complaint Against Them [Docket No. 13]. In essence, each of the defenses upon which Aetna seeks a declaratory judgment in this case are being litigated in state court between the Texas entities who contracted with each other. Thus, abstention is appropriate here.

remanded back to state court, and will soon be set for trial. As such, this Court should exercise its discretion to dismiss this suit.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served electronically on this 13th day of August, 2014 to:

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